

PURCHASE AND SALE AGREEMENT

BETWEEN

PRESIDENT AND FELLOWS OF HARVARD COLLEGE

AND

CAMBRIDGE ELECTRIC LIGHT COMPANY

August 1, 2002

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- A T&D Assets
- B Due Diligence Protocol
- C Form of Deed
- D Form of Bill of Sale
- E Form of Assignment of Leases, Licenses and Permits and Assumption Agreement
- F Confidentiality and Nondisclosure Agreement

SCHEDULES

Schedule 1	Real Property
Schedule 2	Personal Property
Schedule 3	Leases
Schedule 4	Permits
Schedule 5	Contracts
Schedule 6	Seller's Noncontravention Representation Schedule
Schedule 7	Title Commitment
Schedule 8	Seller's Contract Representation Schedule
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PURCHASE AND SALE AGREEMENT

This Purchase and Sale Agreement ("Agreement") is entered into as of August 1, 2002, by and between PRESIDENT AND FELLOWS OF HARVARD COLLEGE, a charitable and educational corporation established under Harvard Charter 1650 from the General Courts of the Massachusetts Bay Colony, and ratified by the Constitution of Massachusetts in 1780 ("Harvard"), and CAMBRIDGE ELECTRIC LIGHT COMPANY, a Massachusetts corporation ("Seller"). Harvard and Seller are each referred to herein as a "Party" or, together, as the "Parties."

On this date, Harvard and NSTAR Steam Corporation ("NSTAR Steam") have entered into a Purchase and Sale Agreement whereby NSTAR Steam agrees to sell to Harvard certain assets used to distribute steam from Blackstone Station (the "Steam Asset Purchase Agreement"). This Agreement contemplates a transaction whereby Harvard will purchase certain real and personal property of the Seller, Cambridge Electric Light Company, that is utilized for the production of steam at Blackstone Station. It is the intent of Harvard and Seller under this Agreement (and the intent of Harvard and NSTAR Steam under the Steam Asset Purchase Agreement) that all of the assets of Seller and NSTAR Steam used in the production and distribution of steam at and from Blackstone Station be transferred to Harvard under the Steam Asset Purchase Agreement and this Agreement. It is also the intent of the parties to the respective agreements that both agreements be consummated contemporaneously, and each is therefore conditioned on the consummation of the other.

NOW, THEREFORE, in consideration of the premises and the mutual promises herein made, and in consideration of the representations, warranties, covenants and obligations herein contained, the Parties agree as follows:

1) Purchase and Sale of Assets.

a) Acquired Assets. Seller agrees to sell, assign, convey, deliver and transfer to Harvard, and Harvard agrees to purchase from Seller at the Closing, subject to and upon the terms and conditions contained herein, free and clear of any Lien, the following properties and assets (collectively, the "Acquired Assets"):

- i) The real property described in Schedule 1, together with all easements and other appurtenant rights of Seller therein, including without limitation tunnel structures in and under Blackstone Street, and the Improvements (collectively, the "Real Property"). The term Real Property does not include the Excluded Assets;
- ii) All Inventory, machinery, materials, fixtures, furniture, furnishings, equipment, tools, spare parts, consumables, and other tangible personal property located on the Real Property or used in connection therewith including, without limitation, all turbines, engines, transformers, facilities, pipelines, wires and conduits (A) used to produce, manufacture, operate, or otherwise generate electricity (the "Electric Generating Facility"); or

- (B) used to produce, manufacture, operate, or otherwise generate steam (the "Steam Generating Facility"); or (C) used to do both including without limitation those described in Schedule 2 (collectively, the "Generating Facility");
- iii) All rights with respect to leasehold interests and rights thereunder relating to the Real Property and/or the Generating Facility, to the fullest extent assignable under applicable law, if and only if the leases are set forth on Schedule 3 (the "Leases"), unless such Leases are terminable by Seller without penalty, and Harvard elects to have Seller terminate such Lease(s) prior to Closing pursuant to the provisions of Section 2(c) of this Agreement;
 - iv) All certificates, licenses, grants of location, permits, approvals, consents, orders, exemptions, decisions and other actions of a Governmental Authority relating to the Site to the fullest extent assignable under applicable law or that will pass to Harvard as successor in title to the Site by operation of law, including without limitation those set forth on Schedule 4 (the "Permits");
 - v) All rights of Seller under the contracts, agreements, and personal property leases relating to the operation of the Generating Facility, if and only if listed in Schedule 5 (the "Contracts"), unless such Contracts are terminable without penalty and Harvard elects to have Seller terminate such Contracts prior to the Closing pursuant to the provisions of Section 2(c) of this Agreement; provided that the Seller shall retain the right to be indemnified under any such Contracts for pre-Closing occurrences for which it remains liable and for which Seller indemnifies Harvard hereunder;
 - vi) All books, records, including but not limited to fuel purchase and use records, engineering designs, blueprints, as-built plans, specifications, procedures, studies, reports and equipment repair, safety, maintenance or service records of Seller relating to the design, construction, licensing, maintenance or operation of the Generating Facility, including, but not limited to, Proprietary Information pertaining to the Acquired Assets, but expressly excluding Seller's financial records and books of account; and
 - vii) All rights of Seller, if any, to the name "Blackstone Station".
- b) Excluded Assets. There shall be excluded from the Acquired Assets (described in Section 1(a)) to be sold, assigned, transferred, conveyed, or delivered to Harvard hereunder, and to the extent in existence on the Effective Date or on the Closing Date, there shall be retained by Seller, any and all right, title, or interest to the following assets, properties, and rights (collectively, the "Excluded Assets"):

- i) The T&D Assets, as described in Exhibit A;
 - ii) The Retained Easements;
 - ii) All Cash, accounts, and notes receivable, checkbooks and canceled checks, bank deposits and property or income tax receivables (except for property tax abatements to be apportioned pursuant to Section 5(c));
 - iii) All rights of Seller in and to any causes of action relating to any period through the Closing Date, including without limitation any refunds relating to Chapter 59 Taxes paid by Seller for any period prior to the Closing Date (except for property tax abatements to be apportioned pursuant to Section 5(c)), insurance proceeds and condemnation awards for casualties or condemnations that occurred prior to the Effective Date (except to the extent otherwise provided in this Agreement); and
 - iv) All rights of Seller to the name "Cambridge Steam Corporation" "Cambridge Electric Light Company," "COM/Energy Steam Company", "NSTAR Steam Corporation" and any Trademark that is comprised of or comprises any derivative thereof.
- c) Assumed Liabilities. From and after the Closing, except as set forth in Section 1(d), Harvard will assume, satisfy or perform, on the terms and subject to the conditions set forth herein, all of the following Liabilities of Seller (the "Assumed Liabilities"):
- i) Liabilities for all Environmental Conditions, any Environmental Claims arising or accruing from and after the Closing and resulting from such Environmental Conditions, and any Remediation arising from such Environmental Conditions or Environmental Claims;
 - ii) Liabilities arising or accruing from and after the Closing under (A) the Leases, Permits and Contracts, provided such Lease(s), Permit(s) and Contract(s) are listed on Schedule 3, 4 and 5, respectively, and provided further such Lease(s), Permit(s) and Contract(s) have been assigned to and accepted by Harvard, and (B) the other contracts, leases, and agreements entered into by Seller with respect to the Acquired Assets during the Interim Period; however, with respect to both (A) and (B), Seller retains Liability for a breach or default or violation by Seller on or prior to the Closing Date, and Seller retains Liability for Claims to the extent the same arise out of any such breach or default or violation thereof;
 - iii) Liabilities under the Permitted Encumbrances arising or accruing from and after the Closing; and
 - iv) Liabilities expressly allocated to Harvard in this Agreement or in any of

the Related Agreements, including, without limitation, Liabilities for Taxes allocated to Harvard pursuant to Section 5.

The provisions of this Section 1(c) shall survive the Closing.

- d) Excluded Liabilities. Notwithstanding any provision hereof to the contrary, Harvard shall not assume, pay or perform any Liabilities of Seller that are not expressly identified as an "Assumed Liability," including, but not limited to, the following (the "Excluded Liabilities"):
- i) Liabilities arising out of the Excluded Assets, or any other assets of Seller that are not Acquired Assets, including, but not limited to, Liabilities for Environmental Conditions and Environmental Claims arising exclusively from the Excluded Assets, and for any Remediation arising from such Environmental Conditions or Environmental Claims;
 - ii) Liabilities arising out of the transportation of Hazardous Materials from the Site to an Offsite Hazardous Material Facility, provided the transportation occurred on or prior to the Closing Date;
 - iii) Liabilities of Seller arising from the making or performance of this Agreement or a Related Agreement or the transactions contemplated hereby or thereby;
 - iv) Liabilities in respect of Taxes attributable to the Acquired Assets or to the sale of the Acquired Assets for taxable periods ending on or before the Closing Date, except those Taxes expressly allocated to Harvard pursuant to Section 5(c);
 - v) Liabilities arising from Seller's breach on or prior to the Closing Date of any contract, lease, permit or other instrument relating to the Acquired Assets including, but not limited to, the Contracts, Leases and Permits relating to or included within the Acquired Assets;
 - vi) Liabilities for personal injury claims arising out of Environmental Conditions, provided the Claim is based upon events or conditions occurring before the Closing Date;
 - vii) Liabilities or obligations of Seller associated with the use or operation of the Acquired Assets or the business conducted with the Acquired Assets on or prior to the Closing, except for the Liabilities assumed by Harvard under subsection (c)(i) above; and
 - viii) Liabilities under or arising from all agreements of Seller with respect to

employment matters, including, but not limited to, collective bargaining and labor agreements, and Liabilities arising as a result of the transactions contemplated by this Agreement under the Laws of any Governmental Authority with respect to employment matters, including, but not limited to, collective bargaining agreements.

The provisions of this Section 1(d) shall survive the Closing.

2) Inspection Contingency.

- a) Due Diligence. During the Inspection Period (as defined in Section 2(b) below), Harvard, its agents and representatives shall be entitled to enter upon the Site to perform such inspections and tests of the Site, including without limitation surveys, title examinations, engineering, environmental or geotechnical studies, as Harvard may elect to perform, and to examine the books and records, Contracts, Leases and Permits of Seller relating to the Acquired Assets. All such testing shall be conducted in accordance with the Due Diligence Protocol attached hereto as Exhibit B. Harvard is responsible for securing any permits, licenses or approvals required by any Governmental Authority for the performance of its due diligence activities. Before entering upon the Site, Harvard shall furnish to Seller evidence of general comprehensive and contractual liability insurance coverage, on a claims made basis, of at least \$1,000,000 and insuring against such risks as Seller may reasonably require. Such insurance shall designate Seller as an additional insured for the negligent acts or omissions of Harvard, its agents and representatives. Harvard may self insure for all or any part of such insurance. If Harvard wishes to engage in any testing which will damage or disturb any portion of the Site, Harvard shall obtain Seller's prior written consent thereto, which shall not be unreasonably withheld, but may be reasonably conditioned as Seller may deem appropriate. It shall be Harvard's obligation to repair, at Harvard's sole cost and expense, any damage to the Site caused by any such tests or investigations (the "Repairs") and shall indemnify and defend Seller from any and all loss, cost, liabilities, claims, and expenses whatsoever (including reasonable attorneys' fees of counsel selected by Seller) arising out of any damage to persons or property occurring in or about the Site caused by the actions of Harvard during the Inspection Period. The foregoing indemnification shall survive Closing or the earlier termination of this Agreement.
- b) Inspection Period. The term "Inspection Period," as used herein, shall mean the period of ninety (90) days from the execution hereof, ending at 5:00 p.m. Eastern Time on October 30, 2002. Harvard may, in its sole discretion, terminate this Agreement by giving written notice of such election to Seller before the end of the Inspection Period, in which event the Deposit shall be returned forthwith to Harvard and neither party shall thereafter have any further liability or obligation to the other by reason of this Agreement. In the absence of such written notice timely delivered, this Agreement shall continue in full force and effect and the Deposit shall be non-refundable from and after the termination of the Inspection

Period. If Harvard terminates this Agreement under this provision, it shall be deemed to constitute a full and final waiver and release by Harvard of any preemptive right in the nature of an option, right of first offer or right of first refusal, with respect to the Acquired Assets, or any portion thereof, and arising under any agreement or instrument between Harvard and Seller.

- c) Termination of Leases and Contracts. During the Inspection Period, Harvard shall have the right to review all Leases and Contracts. In the event that any of the Leases or Contracts are terminable without penalty upon notice by Seller to the respective tenant, or in the case of a Contract, the other party(ies) to said Contract, and in the event that Harvard wishes to have Seller terminate said Lease and/or Contract, then Harvard shall give written notice to Seller on or before the end of the Inspection period requesting that Seller terminate said Lease and/or Contract. Upon receipt of said notice from Harvard, Seller shall use all Commercially Reasonable Efforts necessary to terminate the Lease and/or Contract by the Closing Date.

3) Purchase Price.

- a) Purchase Price. Harvard agrees to pay to Seller at the Closing the sum of Fourteen Million Six Hundred Thousand Dollars \$14,600,000.00 (the "Purchase Price"). The amount of the proceeds to be delivered at the Closing shall be adjusted to account for adjustments and pro-rations pursuant to this Section and shall be payable in cash by wire transfer of immediately available funds to Seller in accordance with written instructions of Seller given to Harvard at least three (3) Business Days prior to the Closing.
- b) Adjustment to Purchase Price. The proceeds to be paid at the Closing shall be increased by the net book value of all fuel held by Seller at the Generating Facility as of the Closing.
- c) Allocation of Purchase Price. Harvard and Seller shall use their good faith best efforts to agree upon the allocation of the purchase price among the Acquired Assets consistent with Section 1060 of the Code and the Treasury regulations thereunder. Harvard and Seller, as required, agree to file IRS Form 8594 and all tax returns in accordance with such agreed allocation.

4) Deposit.

- a) Cash Deposit. Within seven business days following the execution of this Agreement, Harvard shall deliver to Seller, in immediately available funds, a cash deposit in the amount of \$1,460,000.00 (the "Cash Deposit"). The Cash Deposit shall be held by Seller in escrow in an interest-bearing account, or in the form of interest bearing obligations of the US Treasury, accounted for at Closing, and applied to the Purchase Price or delivered upon earlier termination of this Agreement, in accordance with the provisions of this Agreement.

- b) Interest. The interest payable on the Cash Deposit shall be paid to the party entitled to the Cash Deposit under the provisions of this Agreement, but such interest shall have no effect on the Purchase Price.
- c) Letter of Credit. In lieu of the Cash Deposit, Harvard may, at its option, deliver to Seller a clean, irrevocable, unconditional stand-by letter of credit in form and substance reasonably acceptable to Seller and in the amount equal to the Cash Deposit due hereunder (the "Letter of Credit," together with the Cash Deposit referred to as the "Deposit"). The Letter of Credit (and any replacement thereto) shall be drawn on a financial institution reasonably acceptable to Seller, which approval shall not be unreasonably withheld or delayed. If the financial institution on which the original Letter of Credit or any replacement Letter of Credit is drawn is declared insolvent, or placed into receivership, Harvard shall, within ten days thereafter, replace the then-outstanding Letter of Credit with a letter of credit in form and substance and drawn upon another financial institution reasonably acceptable to Seller. Harvard's obligation to provide the Letter of Credit shall terminate as of the Closing or earlier termination of this Agreement in accordance with the terms hereof.
- d) Refundability of Deposit. In the event Harvard terminates this Agreement pursuant to any provision allowing Harvard the election to terminate, then the Cash Deposit shall be fully refunded (or in the case of the Letter of Credit returned), to Harvard. In the event Harvard does not terminate this Agreement pursuant to any such provision, then, except in the event of a Seller default that is not timely cured, the full Deposit shall become the property of Seller, or if Harvard has provided a Letter of Credit, the full Purchase Price shall be paid at Closing and the Letter of Credit shall be returned to Harvard.

5) Proration.

- a) Items Prorated. Harvard and Seller agree that all of the items normally prorated, including those listed below, relating to the business and operations of the Acquired Assets will be prorated as of the Closing Date, with Seller liable to the extent such items relate to any period through and including the Closing Date, and Harvard liable to the extent such items relate to periods after the Closing Date: (A) Real Property Taxes, personal property taxes, assessments and other charges of the type that could give rise to a Permitted Encumbrance, if any, on or associated with the Acquired Assets; (B) rent and other items payable by or to Seller under any of the Contracts, or Leases assigned to and assumed by Harvard hereunder; (C) any fees with respect to any Permit assigned to Harvard associated with the Site; (D) sewer rents and charges for water, gas, electricity and other utilities; and (E) any fees or charges imposed by any Governmental Authority.
- b) Estimated Closing Statement. Within ninety (90) days following the Effective Date, Seller shall prepare and deliver to Harvard an Estimated Closing Statement

(the "Estimated Closing Statement") that shall set forth Seller's best estimate of all adjustments and pro-rations under this Agreement. Within ten (10) Business Days following the delivery of the Estimated Closing Statement by Seller to Harvard, Harvard may object in good faith to any item in writing. If Harvard objects to the Estimated Closing Statement, the Parties shall attempt to resolve such dispute by negotiation. If the Parties are unable to resolve such dispute prior to the Closing Date (or if Harvard fails to object to the Estimated Closing Statement), the Purchase Price shall be adjusted (the "Closing Adjustment") for the Closing by the amounts shown on the Estimated Closing Statement not in dispute, and the Parties shall resolve any disputed items following the Closing by mediation, arbitration or other appropriate means.

- c) Proration of Real Estate and Personal Property Taxes. In connection with the prorations referred to in this Section, if the actual figures are not available at the Closing Date, the proration shall be based upon the actual Taxes or charges for the preceding year (or appropriate period) for which actual Taxes or charges are available and such Taxes or charges shall be re-prorated upon request of either Seller, on the one hand, or Harvard, on the other hand, made within sixty (60) days of the date the actual amounts become available. If the Taxes which are apportioned are thereafter reduced by abatement, the amount of such abatement, less the reasonable cost of obtaining the same, shall be apportioned between the Parties; provided that neither party shall be obligated to institute or prosecute an abatement unless otherwise agreed in writing. Seller and Harvard agree to furnish each other with such documents and other records that may be reasonably requested in order to confirm all adjustment and proration calculations made pursuant to this Section.

6) The Closing.

- a) Time and Place. Unless otherwise agreed to by the Parties, the closing of the transactions contemplated by this Agreement (the "Closing") shall take place at the offices of Rubin and Rudman LLP, 50 Rowes Wharf, Boston, Massachusetts, commencing at 9:00 a.m. Eastern Time on the date that is fifteen (15) days (or, if the fifteenth day is not a Business Day, then the next Business Day following such fifteenth day) following the date on which all of the conditions precedent to Closing set forth in Sections 12 and 13 have either been satisfied or waived by the Party for whose benefit such condition exists. If the Closing has not occurred by June 30, 2003, for reasons other than any action or omission constituting a breach of this Agreement by the Party seeking termination that is not timely cured, either Party, at its election, may terminate this Agreement and (assuming no uncured breach by Harvard) all amounts paid or deposited by Harvard under this Agreement shall be returned to Harvard, and the Parties shall thereafter have no further obligation to, or recourse against, each other by reason of this Agreement.
- b) Effective Time. The date of Closing is hereinafter called the "Closing Date." The Closing shall be effective for all purposes herein as of 11:59 p.m. Eastern Time on

agree to deliver in connection with the sale of the Acquired Assets and the performance of this Agreement; provided however, that this subsection shall not require Seller to prepare or obtain any surveys or plans (other than plans necessary to reserve the Retained Easements) or title insurance policies relating to the Real Property. Seller shall execute and deliver at Closing customary closing affidavits with respect to mechanic's liens and parties in possession and shall satisfy the following conditions enumerated in Schedule B, Section 1 of the Title Commitment: 4(a), 6, 9, 10, 11 and 12;

- k) waiver of corporate tax lien pursuant to M.G.L. c. 62C §31 unless Seller represents in the Deed that the transfer described herein is not a transfer of all or substantially all of the assets of Seller and Harvard's title insurer agrees to take no exception for such matter; and
 - l) a certificate stating that the representations and warranties set forth in Section 9 are true, correct and complete in all material respects as though made at and as of the Closing Date.
- 8) Deliveries by Harvard at the Closing. At the Closing, Harvard shall deliver to Seller, properly executed and acknowledged, if appropriate:
- a) the Purchase Price;
 - b) the Assignment and Assumption Agreement, substantially in the form attached hereto as Exhibit E, and if necessary or desirable to Seller, in recordable form;
 - c) a certificate from an authorized officer of Harvard, dated the Closing Date, to the effect that, to such officer's Knowledge, the conditions set forth in Section 12 have been satisfied;
 - d) a certificate of the Secretary of Harvard that shall identify by name and title and bear the signature of the officers of Harvard authorized to execute and deliver the Agreement and the Related Agreements and instruments attached as exhibits hereto and thereto;
 - e) an opinion or opinions from one or more counsel to Harvard (who shall be reasonably satisfactory to Seller and any of whom may be an employee of Harvard), dated the Closing Date and reasonably satisfactory in form to Seller and its counsel;
 - f) such other documents or instruments of sale, transfer, conveyance, assignment or assumption as Seller and its counsel may reasonably request and Harvard may agree to deliver in connection with the sale of the Acquired Assets, the assumption of the Assumed Liabilities and the performance of this Agreement; and

- g) a certificate stating that the representations and warranties set forth in Section 10 are true, correct and complete in all material respects as though made at and as of the Closing Date
- 9) Representations, Warranties and Disclaimers of Seller. Seller represents and warrants to Harvard that, to Seller's Knowledge, the statements contained in this Section 9 are true, correct and complete as of the Effective Date:
- a) Organization of Seller. Seller is duly organized, validly existing and in good standing under the laws of The Commonwealth of Massachusetts.
 - b) Authorization of Transaction. Seller has full corporate power and authority to execute and deliver this Agreement and the Related Agreements and, subject to receipt of all Seller's Regulatory Approvals, to perform its obligations hereunder and thereunder. All corporate actions or proceedings to be taken by or on the part of Seller to authorize and permit the due execution and valid delivery by Seller of this Agreement and the Related Agreements and the instruments required to be duly executed and validly delivered by Seller pursuant hereto and thereto, the performance by Seller of its obligations hereunder and thereunder, and the consummation by Seller of the transactions contemplated herein and therein, have been duly and properly taken. This Agreement has been duly executed and validly delivered by Seller and constitutes the valid and legally binding obligation of Seller, enforceable in accordance with its terms and conditions, and when each Related Agreement has been executed and delivered, such Related Agreement will likewise constitute a valid and legally binding obligation of Seller, enforceable in accordance with its terms.
 - c) Noncontravention. Subject to Seller obtaining Seller's Regulatory Approval, neither the execution and the delivery of this Agreement or any of the Related Agreements, nor the consummation of the transactions contemplated hereby and thereby, will (i) violate any constitution, statute, regulation, rule, injunction, judgment, order, decree, ruling, charge, license or other restriction of any Governmental Authority to which Seller or any of its property is subject or any provision of the articles of organization or by-laws of Seller, or (ii) conflict with, result in a breach of, constitute a default under, result in the acceleration of, create in any party the right to accelerate, terminate, modify, or cancel, or require any notice under any agreement, contract, lease, license, instrument, or other arrangement to which Seller is bound or to which any of the Acquired Assets is subject (or result in the imposition of any Lien upon any of the Acquired Assets), except for matters that, in the aggregate, will not have a Material Adverse Effect or that are disclosed in Schedule 6 or any other Schedule.
 - d) Brokers' Fees. Seller has no Liability or obligation to pay any fees or commissions to any broker, finder or agent with respect to the transactions contemplated by this Agreement for which Harvard could become liable or obligated.

- e) Title to Acquired Assets. Except for Permitted Encumbrances, Seller holds good and marketable title to the Real Property to the extent, and only to the extent, specified in the title policy commitment attached hereto as Schedule 7 (the "Title Commitment"). Except as set forth in the Title Commitment and except for Permitted Encumbrances, Seller has good title to or a valid leasehold interest in the other Acquired Assets.
- f) Taxes. Seller has filed all Tax Returns that it was required to file, and has paid all Taxes that have become due as indicated thereon, except where Seller is contesting the same in good faith by appropriate proceeding, where the failure so to file or pay could have a Material Adverse Effect. There is no unpaid Tax due and payable that could have a Material Adverse Effect on Harvard's ownership, operation or use of the Acquired Assets after the Closing for which Harvard could become liable.
- g) Permits. Seller has all Permits required for the use and operation of the Real Property and the Steam Generating Facility, all such Permits are in full force and effect, and no proceedings for the suspension or cancellation of any of such Permits are pending or threatened, except for matters that, in the aggregate, will not have a Material Adverse Effect.
- h) Contracts and Leases. Except for the Contracts and Leases listed in Schedule 8, Seller is not a party to any written contract, purchase order, agreement, personal property lease, commitment, understanding or instrument with respect to the Acquired Assets that is expected to continue in force and effect after the Closing. Each Contract, Lease or agreement referred to (i) constitutes, or will at the Closing constitute, a valid and binding obligation of Seller, (ii) is, and at the Closing will be, in full force and effect, and (iii) except as disclosed in Schedule 8, may be assigned to Harvard pursuant to this Agreement and will continue in full force and effect thereafter, in each case without breaching the terms thereof or resulting in the forfeiture or impairment of any rights thereunder. Except as set forth in Schedule 8, there is not, under any Contract or Lease, any default or event which, with notice or lapse of time or both, would constitute a default on the part of Seller, except such events of default and other events as to which requisite waivers have been obtained.
- i) Compliance With Laws and Permits. Seller has not violated Laws, except for violations that, in the aggregate, would not have a Material Adverse Effect. Seller has received no written notice from any Governmental Authority that Seller's current use and/or operation of the Acquired Assets violates or allegedly violates any Laws and/or Permit required for the use and/or operation of the Acquired Assets except as disclosed in Schedule 9.
- j) Proceedings. Except as disclosed in Schedule 10, there is no claim, action, suit, inquiry, proceeding or investigation pending or threatened against or involving

Seller that seeks to prevent, enjoin or materially alter or delay the transactions contemplated hereby, or that, if adversely determined, would have a Material Adverse Effect. . Seller is not subject to any order, writ, injunction, or decree that would prevent, enjoin, or materially alter or delay the transactions contemplated hereby. There are no judgments, orders, decrees, citations, fines or penalties heretofore assessed against Seller that, in the aggregate, have a Material Adverse Effect.

k) Environmental Matters.

- (i) Seller's use and operation of the Acquired Assets is in compliance with all Environmental Laws applicable to the Acquired Assets, except for matters that would not have a Material Adverse Effect;
- (ii) Seller has not received written notice of, nor is Seller the subject of, any Environmental Claims that would, individually or in the aggregate, have a Material Adverse Effect and that remain(s) outstanding or unresolved; and
- (iii) Except as disclosed in Schedule 11, Seller has not reported any Release at the Site, and Seller is not conducting any Remediation at the Site, and Seller has not received any written or oral request for information under Section 104 of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §9604) ("CERCLA") or other Environmental Law, or been notified in writing that it is a potentially responsible party or a responsible party under CERCLA or M.G.L. Chapter 21E with respect to the Site;.

l) Condemnation. Except as set forth in Schedule 12, Seller has received no written notice from any Governmental Authority of any pending or threatened proceeding to condemn or take by power of eminent domain or otherwise, by any Governmental Authority, all or any part of the Acquired Assets.

m) Regulation as a Utility. Seller is an "electric company" within the meaning of Chapter 164 of the Massachusetts General Laws.

n) Disclaimers Regarding Acquired Assets. EXCEPT FOR ANY REPRESENTATIONS AND WARRANTIES SET FORTH IN THIS SECTION 9, THE ACQUIRED ASSETS ARE SOLD "AS IS, WHERE IS," AS OF THE EFFECTIVE DATE, AND IN THEIR CONDITION AS OF THE EFFECTIVE DATE, AND SELLER EXPRESSLY DISCLAIMS ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND OR NATURE, EXPRESS OR IMPLIED, AS TO LIABILITIES, OPERATIONS OF THE GENERATING FACILITY, TITLE, CONDITION, VALUE OR QUALITY OF THE ACQUIRED ASSETS OR THE PROSPECTS (FINANCIAL AND OTHERWISE), RISKS AND OTHER INCIDENTS OF THE ACQUIRED ASSETS AND SELLER SPECIFICALLY DISCLAIMS ANY REPRESENTATION OR WARRANTY

OF MERCHANTABILITY, USAGE, SUITABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE WITH RESPECT TO THE ACQUIRED ASSETS, OR ANY PART THEREOF, OR AS TO THE WORKMANSHIP THEREOF, OR THE ABSENCE OF ANY DEFECTS THEREIN, WHETHER LATENT OR PATENT (INCLUDING THE EXISTENCE OF ANY ENVIRONMENTAL CONDITIONS), OR COMPLIANCE WITH ENVIRONMENTAL LAWS, OR AS TO THE CONDITION OF THE ACQUIRED ASSETS, OR ANY PART THEREOF, OR WHETHER SELLER POSSESSES SUFFICIENT REAL PROPERTY OR PERSONAL PROPERTY TO OPERATE THE ACQUIRED ASSETS. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT, SELLER FURTHER SPECIFICALLY DISCLAIMS ANY REPRESENTATION OR WARRANTY REGARDING THE ABSENCE OF HAZARDOUS MATERIALS OR LIABILITY OR POTENTIAL LIABILITY ARISING UNDER ENVIRONMENTAL LAWS. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, SELLER EXPRESSLY DISCLAIMS ANY REPRESENTATION OR WARRANTY OF ANY KIND REGARDING THE CONDITION OF THE ACQUIRED ASSETS OR THE SUITABILITY OF THE GENERATING FACILITY FOR OPERATION AS AN ELECTRIC POWER PLANT OR STEAM GENERATING PLANT, AND NO OTHER MATERIAL OR INFORMATION PROVIDED BY OR COMMUNICATIONS MADE BY SELLER OR ITS AGENTS, OR ANY ORAL, WRITTEN OR ELECTRONIC RESPONSE TO ANY INFORMATION REQUEST PROVIDED TO HARVARD, WILL CAUSE OR CREATE ANY WARRANTY, EXPRESS OR IMPLIED, AS TO THE TITLE, CONDITION, VALUE OR QUALITY OF THE ACQUIRED ASSETS, OR ANY OF THE FOREGOING MATTERS.

- 10) Representations and Warranties of Harvard. Harvard represents and warrants to Seller, to Harvard's Knowledge, that the statements contained in this Section 10 are correct and complete as of the Effective Date.
- a) Organization of Harvard. Harvard, a charitable and educational corporation established under Harvard Charter 1650 from the General Courts of the Massachusetts Bay Colony, and ratified by the Constitution of Massachusetts in 1780, is duly organized and validly existing.
 - b) Authority of Transaction. Harvard has full corporate power and authority to execute and deliver this Agreement and the Related Agreements and to perform its obligations hereunder and thereunder. All corporate actions or proceedings to be taken by or on the part of Harvard to authorize and permit the due execution and valid delivery by Harvard of this Agreement and the instruments required to be duly executed and validly delivered by Harvard pursuant hereto and thereto, the performance by Harvard of its obligations hereunder and thereunder, and the consummation by Harvard of the transactions contemplated herein and therein, have been duly and properly taken. This Agreement has been duly executed and validly delivered by Harvard and constitutes the valid and legally binding

obligation of Harvard, enforceable in accordance with its terms and conditions and when each Related Agreement has been executed and delivered, such Related Agreement will likewise constitute a valid and legally binding obligation of Harvard, enforceable in accordance with its terms.

- c) Noncontravention. Neither the execution and the delivery of this Agreement or any of the Related Agreements, nor the consummation of the transactions contemplated hereby and thereby, will (i) violate any constitution, statute, regulation, rule, injunction, judgment, order, decree, ruling, charge, license or other restriction of any Governmental Authority to which Harvard is subject or any provision of the articles of organization or bylaws of Harvard or (ii) conflict with, result in a breach of, constitute a default under, result in the acceleration of, create in any party the right to accelerate, terminate, modify, or cancel, or require any notice under any agreement, contract, lease, license, instrument, or other arrangement to which Harvard is a party or by which it is bound or to which any of its assets is subject.
- d) Brokers' Fees. Harvard has no Liability or obligation to pay any fees or commissions to any broker, finder or agent with respect to the transactions contemplated by this Agreement for which Seller could become liable or obligated.
- e) Litigation. No claim, demand, action or suit is pending or threatened that would be reasonably likely to result in Harvard being unable to consummate the transactions contemplated herein, or that questions the validity of this Agreement or the Related Agreements, or of any action taken or to be taken pursuant to or in connection with the provisions of this Agreement or the Related Agreements. There are no judgments, orders, decrees, citations, fines or penalties heretofore assessed against Harvard that impair, estop, impede, restrain, ban or otherwise adversely affect Harvard's ability to satisfy or perform all of the Assumed Liabilities under any federal, state or local Law.
- f) No Knowledge of Seller's Breach. On the Effective Date, Harvard has no Knowledge of any breach by Seller of any representation or warranty contained in Section 9 hereof, or of any condition or circumstance that would excuse Harvard from performance of its obligations under this Agreement or the Related Agreements.
- g) "As Is" Sale. The representations and warranties set forth in Section 9 and Section 10 hereof constitute the sole and exclusive representations and warranties of Seller and Harvard in connection with the transactions contemplated hereby. There are no representations, warranties, covenants, understandings or agreements among the Parties regarding the Acquired Assets or their transfer other than those incorporated in this Agreement. Except for the representations and warranties expressly set forth in Section 9, Harvard disclaims reliance on any representations, warranties or guarantees, either express or implied by Seller,

including but not limited to any representation or warranty expressed or implied in any oral, written or electronic response to any information request provided to Harvard. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, HARVARD ACKNOWLEDGES AND AGREES THAT THE ACQUIRED ASSETS ARE BEING ACQUIRED "AS IS, WHERE IS" AS OF THE EFFECTIVE DATE, AND IN THEIR CONDITION AS OF THE EFFECTIVE DATE, AND THAT HARVARD IS RELYING ON ITS OWN EXAMINATION OF THE ACQUIRED ASSETS, AND IS NOT RELYING ON ANY REPRESENTATION OR WARRANTY MADE BY SELLER OR ITS AGENTS, EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES SET FORTH IN SECTION 9 AND IN THE INSTRUMENTS OF TRANSFER AND CONVEYANCE.

11) Covenants. The Parties agree as follows:

- a) General. Each of the Parties will use its best efforts to take all actions and to do all things necessary, proper or advisable in order to consummate and make effective the transactions contemplated by this Agreement and the Related Agreements (including satisfaction, but not waiver, of the closing conditions set forth in Sections 12 and 13 below).
- b) Notices, Consents and Approvals. Seller and Harvard shall cooperate with each other and use all Commercially Reasonable Efforts to (i) promptly prepare and file all necessary documentation, (ii) effect all necessary applications, notices, petitions and filings and execute all agreements and documents, (iii) obtain the transfer, issuance or re-issuance to Harvard of all Permits and (iv) obtain all necessary consents, approvals and authorizations of all other parties necessary or advisable to consummate the transactions contemplated by this Agreement or in any of the Related Agreements (including, without limitation, Seller's Regulatory Approvals) or required by the terms of any note, bond, mortgage, indenture, deed of trust, license, franchise, permit, concession, contract, lease or other instrument to which Seller or Harvard is a party or by which either of them is bound. Both Parties shall have the right to review in advance all characterizations of the information relating to the transactions contemplated by this Agreement or in any of the Related Agreements that appear in any filing made by either Party in connection with the transactions contemplated hereby or thereby.
- c) Operation of the Site During Interim Period.
 - i) Operations. During the Interim Period, Seller will operate and maintain the Real Property and the Steam Generating Facility in the ordinary course consistent with Prudent Utility Practices, unless otherwise contemplated by this Agreement or with the prior written consent of Harvard. Seller will cooperate with Harvard in making arrangements so that selected Harvard personnel, representatives and/or agents may be present at the Site during operating hours for training purposes, subject to safety,

security and other similar requirements. From the expiration of the Inspection Period to the Closing, Seller and Harvard agree to abide by the obligations contained in Section 2.4 of the Operating Agreement between NSTAR Steam Corporation and President and Fellows of Harvard College dated August 1, 2002. Without limiting the generality of the foregoing, Seller shall not, without the prior written consent of Harvard, during the Interim Period, with respect to the Acquired Assets:

- (A) sell, lease (as lessor), transfer or otherwise dispose of, any of the Acquired Assets, other than as used, consumed or replaced in the ordinary course of business consistent with Prudent Utility Practices, or encumber, pledge, mortgage or suffer to be imposed on any of the Acquired Assets any encumbrance other than Permitted Encumbrances;
- (B) make any material change in the levels of Inventories customarily maintained by Seller with respect to the Acquired Assets, except for such changes that are consistent with Prudent Utility Practices;
- (C) terminate or materially amend any of the Leases, Contracts or the Permits, except as may be necessary in order to transfer Seller's rights thereunder to Harvard at the Closing, or otherwise comply with the terms of this Agreement;
- (D) enter into any contract or commitment affecting the Acquired Assets which individually exceeds \$25,000.00 or in the aggregate exceeds \$100,000.00, unless such contract or commitment is to be fully performed prior to the Closing or can be terminated by Harvard at its option at any time following the Closing without penalty or cancellation charge; or
- (E) enter into any steam supply contract or renew or extend any existing Steam Contract.

ii) Insurance. During the Interim Period, Seller shall maintain insurance coverage with respect to the Acquired Assets in the manner and at levels currently insured, but in no event less than full replacement value. Evidence of Seller's insurance is attached as Schedule 13.

d) Interim Period Notice. The Parties shall provide the following notice:

- i) After the expiration of the Inspection Period, Harvard shall notify Seller promptly if any information comes to Harvard's attention after the end of the Inspection Period that would or might excuse Harvard from the performance of its obligations under this Agreement or the Related Agreements or would or might cause any condition to close set forth in

Sections 12 or 13 not to be satisfied. If Harvard fails to so notify Seller within thirty (30) days of obtaining Knowledge of such information, Harvard shall be deemed to have waived (A) the right to be excused from such performance or (B) the fulfillment of such conditions.

- ii) Seller shall notify Harvard promptly if any information comes to its attention that would or might excuse Seller from the performance of its obligations under this Agreement or the Related Agreements or would or might cause any condition to close set forth in Sections 12 or 13 not to be satisfied. In the event that Seller fails to so notify Harvard within thirty (30) days of obtaining Knowledge of such information, Seller shall be deemed to have waived (A) the right to be excused from such performance or (B) the fulfillment of such conditions.
- iii) Seller shall notify Harvard of the existence of any matter that if in existence on the Effective Date or the Closing Date would or might cause any of the representations or warranties in Section 9 above to be untrue or incorrect. Unless Harvard has the right to terminate this Agreement pursuant to Section 19(a)(ii)(5) below by reason of such notice and exercises that right within the period of 30 days referred to in Section 19(a)(ii)(5) below, the written notice pursuant to this Section 11(d)(iii) shall be deemed to have amended the appropriate Schedule or Schedules as of the Effective Date, to have qualified the representations and warranties contained in Section 9 above as of the Effective Date, and to have cured any misrepresentation or breach of warranty that otherwise might have existed hereunder by reason of the existence of such matter.
- iv) Harvard shall notify Seller of the existence of any matter that if in existence on the Effective Date or the Closing Date would or might cause any of the representations or warranties in Section 10 above to be untrue or incorrect. Unless Seller has the right to terminate this Agreement pursuant to Section 19(a)(iii)(5) below by reason of such notice and exercises that right within the period of 30 days referred to in Section 19(a)(iii)(5) below, the written notice pursuant to this Section 11(d)(iv) shall be deemed to have amended the appropriate Schedule or Schedules as of the Effective Date, to have qualified the representations and warranties contained in Section 10 above as of the Effective Date, and to have cured any misrepresentation or breach of warranty that otherwise might have existed hereunder by reason of the existence of such matter.

12) Conditions to Obligation of Harvard to Close. The obligation of Harvard to consummate the transactions to be performed by it in connection with the Closing is subject to satisfaction of the following conditions precedent:

- a) Representations and Warranties. The representations and warranties set forth in Section 9 above shall be true, correct and complete in all material respects as

though made at and as of the Closing Date.

- b) Performance by Seller. Seller shall have performed and complied in all material respects with all of its covenants, agreements and obligations hereunder through the Closing.
 - c) Absence of Litigation. No suit, action or other proceeding against any Party or its Affiliates or any of the Acquired Assets shall be pending before any Governmental Authority which seeks to restrain or prohibit any of the transactions contemplated by this Agreement or to obtain damages or other relief in connection with this Agreement or the actions contemplated hereby, except for matters that, in the aggregate, will not have a Material Adverse Effect. There shall not be any injunction, judgment, order, decree, ruling, charge or laws in effect preventing consummation of any of the transactions contemplated by this Agreement or the Related Agreements, except as shall not have a Material Adverse Effect.
 - d) Deliveries. Seller shall have complied in all material respects with the delivery requirements of Section 7.
 - e) Title. There shall be no matters that would constitute an exception to title first arising after the date of the Title Commitment unless Harvard has approved of said exception within thirty (30) days of Harvard's actual knowledge of said exception. Seller shall be obligated to remove said exception to the extent that said exception is a Lien or a matter voluntarily permitted or incurred by Seller.
 - f) Material Adverse Effect. Since the Effective Date, there shall not have occurred and be continuing a Material Adverse Effect, other than such arising from facts or circumstances (i) that were within Harvard's Knowledge on the Effective Date and were not required to be corrected before Closing by this Agreement, or (ii) that were disclosed on any of the Schedules.
 - g) Waiver. Harvard may waive any condition specified in this Section 12, if it executes a writing so stating at or prior to the Closing and such waiver shall not be considered a waiver of any other provision in this Agreement unless the writing specifically so states.
 - h) Seller's Regulatory Approval. Seller's Regulatory Approval shall not restrict Harvard's use of the Site.
- 13) Conditions to Obligation of Seller to Close. The obligation of Seller to consummate the transactions to be performed by it in connection with the Closing is subject to satisfaction of the following conditions:
- a) Representations and Warranties. The representations and warranties set forth in Section 10 above shall be true, correct and complete in all material respects as

though made at and as of the Closing Date.

- b) Performance by Harvard. Harvard shall have performed and complied in all material respects with all of its covenants, agreements and obligations hereunder through the Closing.
- c) Seller's Regulatory Approval. Seller shall have received the D.T.E. Approval on terms and conditions acceptable to Seller in its sole discretion.
- d) Absence of Litigation. No suit, action or other proceeding against any Party or its Affiliates or any of the Acquired Assets shall be pending before any Governmental Authority which seeks to restrain or prohibit any of the transactions contemplated by this Agreement or to obtain damages or other relief in connection with this Agreement or the actions contemplated hereby. There shall not be any injunction, judgment, order, decree, ruling, charge or laws in effect preventing consummation of any of the transactions contemplated by this Agreement or the Related Agreements.
- e) Deliveries. Harvard shall have complied in all material respects with the delivery requirements of Section 8.
- f) Waiver. Seller may waive any condition specified in this Section 13 if it executes a writing so stating at or prior to the Closing and such waiver shall not be considered a waiver of any other provision in this Agreement unless the writing specifically so states.
- g) Steam Asset Purchase Agreement Closing. The Closing under the Steam Asset Purchase Agreement shall occur contemporaneously with the Closing hereunder.

14) Further Assurances.

- a) Additional Instruments. At any time and from time to time after the Closing, without further payment, at the request of a Party, the other Party will execute and deliver such instruments of sale, transfer, conveyance, assignment and confirmation and take such action as is necessary to transfer, convey and assign to Harvard, and to confirm Harvard's title to or interest in the Acquired Assets.
- b) Omitted Assets. In the event that any asset (other than the Real Property) that is an Acquired Asset shall not have been fully conveyed to Harvard at the Closing, Seller shall, without further payment, use its best efforts to confirm and perfect such conveyance to Harvard as promptly as is practicable after the Closing.
- c) Assigned Contracts. To the extent that Seller's rights under any contract included as an Acquired Asset, may not be assigned without the consent of another Person which consent has not been obtained by the Closing Date, this Agreement shall not constitute an agreement to assign the same if an attempted assignment would

constitute a breach thereof or be unlawful, and Seller, at its expense, shall use Commercially Reasonable Efforts to obtain any such required consent(s) as promptly as possible. Seller and Harvard agree that if any consent to an assignment shall not be obtained, or if any attempted assignment would be ineffective, or would impair Harvard's rights and obligations under the contract in question, so that Harvard would not in effect acquire the benefit of all such rights and obligations, Seller, to the maximum extent permitted by law and by such contract, shall, after the Closing, appoint Harvard to be Seller's agent with respect to such contract, and Seller shall, to the maximum extent permitted by law and by such contract, enter into such reasonable arrangements with Harvard as are necessary to provide Harvard with the benefits and obligations of such contract. Seller and Harvard shall cooperate and shall each use Commercially Reasonable Efforts after the Closing to obtain an assignment of such contract to Harvard; provided that Harvard shall not have any obligation to offer or pay any consideration in order to obtain any such consents.

- d) Taking Claim. To the extent that, in the event of a Taking, an assignment of Seller's rights against the condemning authority shall not be sufficient to allow Harvard to prosecute claims for compensation against the condemning authority, Seller shall cooperate with Harvard, including, if necessary, maintaining and prosecuting an action against the condemning authority in the name of Seller, however, at the sole cost and expense of Harvard.

This Section 14 shall survive the Closing.

15) Cooperation after Closing.

- a) Records and Support. After the Closing Date, Seller shall have reasonable access to, and the right to copy, all of the records, books and documents related to the Acquired Assets to the extent that Seller has delivered such records, books and documents to Harvard at or in connection with the Closing and to the extent that such access may reasonably be required by Seller in connection with matters relating to or affected by the operation of the Acquired Assets by Seller prior to the Closing Date. Such access shall be afforded by Harvard upon receipt of reasonable advance notice and during normal business hours. Seller shall be solely responsible for any costs or expenses incurred by it pursuant to this Section. However, Harvard will not have any obligation to Seller under this Agreement to maintain any records, books or documents relating to operations prior to Closing beyond ten (10) years from the Closing Date. If Harvard shall desire to dispose of any of records, books or documents that may relate to operation of the Site prior to the Closing Date, Harvard shall, prior to such disposition, give to Seller a reasonable opportunity, at Seller's expense, to segregate and remove such records, books or documents as Seller may select.
- b) Proceedings. Both parties agree to cooperate with each other in connection with any investigation by any Governmental Authority, litigation or regulatory or other

proceeding which may arise following the Closing Date and which relates to the operation of the Generating Facility by Seller prior to the Closing Date. Seller shall reimburse Harvard for all reasonable expenses incurred by Harvard in connection therewith.

This Section 15 shall survive the Closing.

16) Risk of Loss.

- a) Casualty Loss. If during the Interim Period the Acquired Assets, or portions thereof, are damaged by fire or other casualty (each such event, a "Casualty Loss"), then the following provisions shall apply:
- i) If such Casualty Loss would preclude or materially and substantially interfere with the continued operation of the Acquired Assets or result in a Material Adverse Effect, then, at Harvard's election, this Agreement shall terminate as of the date of the Casualty Loss, the Deposit under this Agreement shall be returned to Harvard, and the Parties shall thereafter have no further obligation to, or recourse against, each other by reason of this Agreement. In all other events, subsection 16(a)(ii) shall apply. If Harvard terminates this Agreement under this provision, it shall be deemed to constitute a full and final waiver and release by Harvard of any preemptive right in the nature of an option, right of first offer or right of first refusal, with respect to the Acquired Assets, or any portion thereof, and arising under any agreement or instrument between Harvard and Seller.
 - ii) In the event Harvard does not elect to terminate this Agreement in accordance with Section 16(a)(i) above, Seller shall use all Commercially Reasonable Efforts to collect the proceeds of all applicable insurance with respect to such Casualty Loss, less any costs and expenses reasonably incurred by Seller in obtaining such insurance proceeds ("Net Proceeds"), and such Net Proceeds, to the extent collected by Seller and not applied to the immediate repair or restoration of the Casualty Loss, shall be held for the benefit of Harvard and duly accounted for at Closing. In addition, Harvard shall receive a credit at Closing equal to the sum of (A) any deductibles under Seller's applicable policies, and (B) any amount that is determined to be uncollectible under any policy due to any act, omission or fault of Seller. Seller shall assign to Harvard at Closing all claims with respect to such Casualty Loss that are not finally determined prior to Closing, and the Parties shall proceed to Closing without any further adjustment in the Purchase Price.
 - iii) In the event of any one or more Casualty Losses for which Seller actually collects insurance proceeds, Seller shall, in consultation with Harvard, proceed to repair or restore the damage, in a manner consistent with

Prudent Utility Practices, but only to the extent of Net Proceeds received plus any deductible and self-insurance amounts payable by Seller.

- b) Taking. If during the Interim Period the Acquired Assets, or portions thereof, are taken by a Governmental Authority by exercise of the power of eminent domain (each, a "Taking"), then the following provisions shall apply:
 - i) If such Taking would preclude or materially and substantially interfere with the continued operation of the Acquired Assets or result in a Material Adverse Effect, then, at Harvard's election, this Agreement shall terminate as of the date of the Taking, the Deposit under this Agreement shall be returned to Harvard, and the Parties shall thereafter have no further obligation to, or recourse against, each other by reason of this Agreement. In all other events, subsection 16(b)(ii) shall apply. If Harvard terminates this Agreement under this provision, it shall be deemed to constitute a full and final waiver and release by Harvard of any preemptive right in the nature of an option, right of first offer or right of first refusal, with respect to the Acquired Assets, or any portion thereof, and arising under any agreement or instrument between Harvard and Seller.
 - ii) In the event Harvard does not elect to terminate this Agreement in accordance with Section 16(b)(i) above, Seller shall (A) not waive, settle or compromise any causes of action against the condemning authority, and (B) use all Commercially Reasonable Efforts to collect the Net Proceeds of all pro-tanto awards from the condemning authority with respect to such Taking, and such Net Proceeds shall be held for the benefit of Harvard and duly accounted for at Closing. In addition, Seller shall assign to Harvard at Closing all claims against the condemning authority and all rights to any further recovery of compensation with respect to such Taking, and the Parties shall proceed to Closing without any adjustment in the Purchase Price.

17) Confidentiality.

The respective rights and obligations of the Parties with regard to confidentiality shall be governed by the terms of the Confidentiality and NonDisclosure Agreement between the Parties dated as of June 28, 2002, a copy of which is attached hereto as Exhibit F.

18) Effect of Closing and Indemnification.

- a) Non-Survival of Representations and Warranties; Survival of Covenants and Agreements. The representations and warranties set forth in this Agreement and in any certificate or instrument delivered in connection herewith shall terminate at the Closing or the earlier termination of this Agreement pursuant to its terms, as the case may be. The covenants and agreements contained in this Agreement that by their terms survive the Closing or termination of this Agreement shall survive such Closing or termination, as the case may be, and all other covenants and

agreements shall terminate at the Closing or the earlier termination of this Agreement pursuant to its terms, as the case may be.

- b) Effect of Closing. Except as otherwise provided herein, upon the Closing, any condition in favor of either Party that has not been satisfied, or any representation, warranty or covenant, that has been breached or left unsatisfied by either Party will be deemed waived by the Parties as of the Closing Date, and each Party will be deemed to fully release and forever discharge the other Party on account of any and all claims, demands or charges, known or unknown, with respect to the same. Nothing in this provision shall affect or cause to be waived those matters specifically stated to survive or to occur after the Closing pursuant to this Agreement.
- c) Indemnity by Seller. From and after the Closing, Seller will indemnify, defend and hold harmless Harvard, its Affiliates and any of their respective officers, members of governing boards, directors, employees, and agents (the "Harvard Indemnified Party") against and in respect of all Claims asserted against or suffered by the Harvard Indemnified Party relating to, resulting from or arising out of the following:
 - i) Any Liability with respect to the Acquired Assets under any bulk transfer law of any jurisdiction;
 - ii) To the extent not expressly assumed by Harvard pursuant to the terms of the Agreement or the Related Agreements, Seller's ownership, operation or use of the Acquired Assets, or the business and/or operations conducted with or with respect to the Acquired Assets, on or prior to the Closing;
 - iii) The Excluded Assets;
 - iv) Liabilities not assumed by Harvard pursuant to Section 1(c) including, but not limited to, the Excluded Liabilities set forth in Section 1(d);
 - v) Any breach by Seller of any covenant, agreement or obligation of Seller contained in this Agreement or any certificate required to be delivered by Seller pursuant to this Agreement;
 - vi) Any intentional misrepresentation or fraudulent breach of representation or warranty by Seller;
 - vii) Any contracts, leases or other agreements or commitments entered into or made by Seller with respect to the Acquired Assets, unless Harvard has agreed to assume Liabilities under such agreements or commitments; and
 - viii) Liens on the Site arising before or as a result of the Closing.

Notwithstanding the foregoing, Harvard will be liable for the first \$25,000 in such Claim(s) and Seller's obligations under this provision do not arise until Claim(s) totaling \$25,000, individually or in the aggregate, have been asserted against Harvard.

- d) Indemnity by Harvard. From and after the Closing, Harvard will indemnify, defend, and hold harmless Seller, its Affiliates and any of their respective officers, members of governing boards, directors, employees, and agents (the "Seller Indemnified Party") against and in respect of all Claims asserted against or suffered by Seller Indemnified Party relating to, resulting from or arising out of the following:
- i) To the extent not expressly retained by Seller pursuant to the terms of this Agreement or the Related Agreements, Harvard's ownership, operation or use of the Acquired Assets, or the business conducted with, or with respect to, the Acquired Assets after the Closing;
 - ii) The Contracts, Leases or Permits, or any agreements that have been transferred or assigned to Harvard by Seller, except to the extent the Claim arises from a breach of the contract or agreement including, but not limited to, Contracts, Leases and Permits relating to or included within the Acquired Assets, by Seller prior to, or as a result of, the Closing;
 - iii) The Assumed Liabilities;
 - iv) Any breach by Harvard of any covenant, agreement or obligation of Harvard contained in this Agreement or any certificate required to be delivered by Harvard pursuant to this Agreement; and
 - v) Any intentional misrepresentation or fraudulent breach of representation or warranty by Harvard.

Notwithstanding the foregoing, Seller will be liable for the first \$25,000 in such Claim(s) and Harvard's obligations under this provision do not arise until Claim(s) totaling \$25,000, individually or in the aggregate, have been asserted against Seller.

- e) Exclusive Remedy. From and after the Closing, the remedies set forth in this Section 18 constitute the sole and exclusive remedy for any and all claims, damages, complaints, demands, causes of action, investigations, hearings, actions, suits or other proceedings relating to this Agreement and are in lieu of any and all other rights and remedies which Seller or Harvard may have under this Agreement or otherwise for monetary relief with respect to any breach or failure to perform or with respect to the Assumed or Excluded Liabilities, other than equitable remedies for fraud, and except for obligations to be performed after the Closing hereunder. Each Party waives any provision of law to the extent that it would limit or restrict the agreements contained in this Section 18. Nothing herein shall prevent either Party from terminating this Agreement in accordance

with Section 19.

f) Matters Involving Third Parties.

- i) If any Third Party shall notify any Party (the "Indemnified Party") with respect to any matter (a "Third-Party Claim") that may give rise to a claim for indemnification against any other Party (the "Indemnifying Party") under this Section 18, then the Indemnified Party shall promptly notify the Indemnifying Party thereof in writing; provided, however, that no delay on the part of the Indemnified Party in notifying the Indemnifying Party shall relieve the Indemnifying Party from any obligation hereunder unless (and then solely to the extent) the Indemnifying Party thereby is prejudiced.
- ii) Any Indemnifying Party will have the right to defend, at its expense, the Indemnified Party against the Third-Party Claim with counsel of its choice reasonably satisfactory to the Indemnified Party so long as (A) the Indemnifying Party notifies the Indemnified Party in writing within fifteen days after the Indemnified Party has given notice of the Third-Party Claim that the Indemnifying Party will indemnify the Indemnified Party from and against the entirety of any losses the Indemnified Party may suffer resulting from, arising out of, relating to, in the nature of, or caused by the Third-Party Claim, (B) the Indemnifying Party provides the Indemnified Party with evidence acceptable to the Indemnified Party that the Indemnifying Party will have the financial resources to defend against the Third-Party Claim and fulfill its indemnification obligations hereunder, (C) the Third-Party Claim involves only money damages and does not seek an injunction or other equitable relief, settlement of, or an adverse judgment with respect to, the Third-Party Claim is not, in the good faith judgment of the Indemnified Party, likely to establish a precedential custom or practice adverse to the continuing business interests of the Indemnified Party, and (D) the Indemnifying Party conducts the defense of the Third-Party Claim actively and diligently.
- iii) So long as the Indemnifying Party is conducting the defense of the Third-Party Claim in accordance with subsection (ii) above, (A) the Indemnified Party may retain separate co-counsel at its sole cost and expense and participate in the defense of the Third-Party Claim, (B) the Indemnified Party will not consent to the entry of any judgment or enter into any settlement with respect to the Third-Party Claim without the prior written consent of the Indemnifying Party (which consent shall not unreasonably be withheld), and (C) the Indemnifying Party will not consent to the entry of any judgment or enter into any settlement with respect to the Third-Party Claim, unless written agreement is obtained releasing the Indemnified Party from all liability thereunder.
- iv) In the event any of the conditions in subsection (ii) above is or becomes

unsatisfied, however, (A) the Indemnified Party may defend against, and consent to the entry of any judgment or enter into any settlement with respect to, the Third-Party Claim in any manner it may deem appropriate (and the Indemnified Party need not consult with, or obtain any consent from, any Indemnifying Party in connection therewith), (B) the Indemnifying Party will reimburse the Indemnified Party promptly and periodically for the costs of defending against the Third-Party Claim (including attorneys' fees and expenses, notwithstanding Section 20(n)), and (C) the Indemnifying Party will remain responsible for any losses the Indemnified Party may suffer resulting from, arising out of, relating to, in the nature of, or caused by the Third-Party Claim to the fullest extent provided in this Section 18

g) Release. Effective only as of the Closing, Harvard releases, holds harmless and forever discharges Seller from any and all Environmental Claims resulting from or arising from any Environmental Condition, except for Environmental Claims arising out of the Excluded Liabilities retained by Seller pursuant to Section 1(d). With respect thereto, Harvard hereby waives any and all rights and benefits that it now has, or in the future may have conferred upon it by virtue of any statute or common law principle which provides that a general release does not extend to claims that a party does not know or suspect to exist in its favor at the time of such release, which if known, would have materially affected such Party's settlement with the other Party. In this connection, Harvard hereby acknowledges that factual matters now unknown to it may have given or may hereafter give rise to Environmental Claims that are presently unknown, unanticipated and unsuspected, and it further agrees that this release has been negotiated and agreed upon in light of that awareness, and it nevertheless hereby intends to release Seller from the Claims described in the first sentence of this Section.

h) No Recourse. To the extent the transfer, conveyance, assignment and delivery of the Acquired Assets to Harvard as provided in this Agreement is accomplished by deeds, assignments, easements, leases, licenses, bills of sale, or other instruments of transfer and conveyance, whether executed at the Closing or thereafter, these instruments are made without representation or warranty by, or recourse against, Seller, except as expressly provided in this Agreement or in any such instrument.

i) Survival. The provisions of this Section 18 shall survive the Closing.

19) Termination.

a) Termination of Agreement. The Parties may terminate this Agreement as provided below:

i) the Parties may terminate this Agreement by mutual written consent at any time prior to the Closing;

- ii) Harvard may terminate this Agreement by giving written notice to Seller at any time prior to the Closing if any of the following has occurred: (1) Seller has breached any representation, warranty or covenant contained in this Agreement in any material respect, Harvard has notified Seller of the breach, and the breach has continued without cure for a period of thirty (30) days after the notice of breach; (2) one or more courts of competent jurisdiction shall have issued an order, judgment or decree permanently restraining, enjoining or otherwise prohibiting the Closing, which order, judgment or decree shall have become Final; (3) any statute, rule, or regulation shall have been enacted by any Governmental Authority that directly or indirectly, prohibits the consummation of the transactions contemplated hereby; (4) in accordance with Section 2(b), Section 6(a) or Section 16(a) and (b) hereof; or (5) Seller has within the then previous thirty days given Harvard any notice pursuant to Section 11(d) above and the matter that is the subject of such notice, if in existence on the Effective Date or the Closing Date, would cause the representations and warranties of Seller set forth in Section 9 hereof not be true and correct.
 - iii) Seller may terminate this Agreement by giving written notice to Harvard at any time prior to the Closing if any of the following has occurred: (1) Harvard has breached any representation, warranty, or covenant contained in this Agreement in any material respect, Seller has notified Harvard of the breach, and the breach has continued without cure for a period of thirty (30) days after the notice of breach; (2) Seller's Regulatory Approval shall have been denied, or shall have been granted on terms or conditions that are unacceptable to Seller, in Seller's sole discretion, (3) one or more courts of competent jurisdiction shall have issued an order, judgment or decree permanently restraining, enjoining or otherwise prohibiting the Closing, which order, judgment or decree shall have become Final; (4) any statute, rule, or regulation shall have been enacted by any Governmental Authority that directly or indirectly, prohibits the consummation of the transactions contemplated hereby; (5) the Steam Asset Purchase Agreement is terminated, or (6) Harvard has within the then previous thirty days given Seller any notice pursuant to Section 11(d) above and the matter that is the subject of such notice, if in existence on the Effective Date or the Closing Date, would cause the representations and warranties of Harvard set forth in Section 10 hereof not be true and correct.
- b) Effect of Termination. If any Party terminates this Agreement pursuant to Section 19(a) above, all rights and obligations of the Parties hereunder shall terminate without any Liability of any Party to any other Party (except for any Liability of any Party then in breach) and, if Seller is the party in breach, the Deposit shall be returned forthwith to Harvard and neither Party shall thereafter have any further liability or obligation to the other by reason of this Agreement except for those provisions that expressly survive the termination of this Agreement.

20) Miscellaneous.

- a) Press Releases and Public Announcements. No Party shall issue any press release or make any public announcement relating to the subject matter of this Agreement prior to the Closing without the prior approval of the other Party; provided, however, that any Party may make any public disclosure it believes in good faith is required by applicable law, regulation, or any listing or trading agreement concerning its publicly-traded securities (in which case the disclosing Party will provide the other Party with the opportunity to review the disclosure in advance). The provisions of this Section 20(a) shall survive the Closing.
- b) No Third Party Beneficiaries. This Agreement shall not confer any rights or remedies upon any Third Party. The provisions of this Section 20(b) shall survive the Closing.
- c) No Joint Venture. Nothing in this Agreement creates or is intended to create an association, trust, partnership, joint venture or other entity or similar legal relationship between the Parties, or impose a trust, partnership or fiduciary duty, obligation, or liability on or with respect to either Party. Except to the extent specifically provided herein, neither Party is, or shall act as, or be the agent or representative of the other Party. The provisions of this Section 20(c) shall survive the Closing.
- d) Entire Agreement. This Agreement (including the Related Agreements and any other documents referred to herein) constitutes the entire agreement between the Parties and supersedes any prior understandings, agreements, or representations by or between the Parties, written or oral, to the extent they related in any way to the subject matter hereof. All conflicts or inconsistencies between the terms hereof and the terms of any of the Related Agreements, if any, shall be resolved in favor of this Agreement.
- e) Succession and Assignment. This Agreement shall be binding upon and inure to the benefit of the Parties named herein and their respective successors and permitted assigns. Harvard may assign its interest, rights and obligations hereunder to one or more entities that is or are Affiliates of Harvard (each an "Assignee"), which Assignee shall assume such interest, rights, and obligations or designated portion thereof. Without limiting the generality of the foregoing, Harvard shall have the right to designate portions of the Acquired Assets to be acquired by separate Assignees. As a condition precedent to such assignment, Harvard shall deliver to Seller an unconditional guarantee of payment and performance, in form and substance acceptable to Seller, guaranteeing the obligations of such Assignee(s). Except as provided in the preceding sentence, no Party may assign either this Agreement or the Related Agreements or any of its rights, interests, or obligations hereunder or thereunder without the prior written approval of the other Party.

- f) Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together will constitute one and the same instrument.
- g) Headings. The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.
- h) Notices. All notices, requests, demands, claims, and other communications hereunder will be in writing. Any notice, request, demand, claim, or other communication hereunder shall be deemed duly given (i) upon electronic confirmation of facsimile, (ii) one Business Day following the date sent, when sent by overnight delivery and (iii) five Business Days following the date mailed, when mailed by registered or certified mail, return receipt requested and postage prepaid, at the following address:

i) If to Seller:

Douglas S. Horan, Esquire
Senior Vice President, Secretary and General Counsel
Cambridge Electric Light Company
800 Boylston Street, 17th Floor
Boston, MA 02199

With a copy to:

Neven Rabadjija, Esq.
Associate General Counsel
NSTAR Electric & Gas Corporation
800 Boylston Street, 17th Floor
Boston, MA 02199

ii) If to Harvard:

Thomas E. Vautin
Associate Vice President for Facilities and Environmental Services
Harvard University
Holyoke Center, Room 761
1350 Massachusetts Avenue
Cambridge, MA 02138

With a copy to:

Robert E. McGaw, Esquire
Office of the General Counsel
Harvard University

Holyoke Center, Room 980
1350 Massachusetts Avenue
Cambridge, MA 02138

Any Party may change the address to which notices, requests, demands, claims, and other communications hereunder are to be delivered by giving the other Party notice in the manner herein set forth.

- i) Governing Law. This Agreement shall be governed by and construed in accordance with the domestic laws of the Commonwealth of Massachusetts without giving effect to any choice or conflict of law provision or rule (whether of the Commonwealth of Massachusetts or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the Commonwealth of Massachusetts. The provisions of this Section 20(i) shall survive the Closing.
- j) Change in Law. If and to the extent that, during the Interim Period, any laws or regulations that govern any aspect of this Agreement shall change, so as to make any aspect of this transaction unlawful, without prohibiting the transaction as a whole, then the Parties agree to use good faith efforts to negotiate such modifications to this Agreement as may be reasonably necessary for the Agreement to accommodate any such legal or regulatory changes, without materially changing the overall benefits or consideration expected hereunder by either party.
- k) Consent to Jurisdiction. Each of Seller and Harvard consents to the nonexclusive jurisdiction of the Superior Court for Middlesex County, Commonwealth of Massachusetts, for adjudication of any suit, claim, action or other proceeding at law or in equity relating to this Agreement, or to any transaction contemplated hereby. The provisions of this Section 20(k) shall survive the Closing.
- l) Amendments and Waivers. No amendment of any provision of this Agreement shall be valid unless the same shall be in writing and signed by Harvard and Seller. No waiver by any Party of any default, misrepresentation, or breach of warranty or covenant hereunder, whether intentional or not, shall be deemed to extend to any prior or subsequent default, misrepresentation, or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.
- m) Severability. Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation, provided that the remaining terms and provisions hereof constitute a transaction that is capable of being performed as contemplated herein. The provisions of this Section 20(m) shall survive the Closing.

- n) Expenses. Each of Harvard and Seller will bear its own costs and expenses (including legal, consulting and accounting fees and expenses) incurred in connection with this Agreement and the transactions contemplated hereby.
- o) Construction. Ambiguities or uncertainties in the wording of this Agreement will not be construed for or against any Party, but will be construed in the manner that most accurately reflects the Parties' intent as of the Effective Date they executed this Agreement. The Parties acknowledge that they have been represented by counsel in connection with the review and execution of this Agreement, and, accordingly, there shall be no presumption that this Agreement or any provision hereof be construed against the Party that drafted this Agreement. The provisions of this Section 20(o) shall survive the Closing.
- p) Incorporation of Exhibits and Schedules. The Exhibits and Schedules identified in this Agreement are incorporated herein by reference and made a part hereof.
- q) Specific Performance. Each of the Parties acknowledges and agrees that the other Party would be damaged irreparably in the event any of the provisions of this Agreement are not performed in accordance with their specific terms or otherwise are breached. Accordingly, each of the Parties agrees that the other Party shall be entitled to an injunction or injunctions to prevent breaches of the provisions of this Agreement and to enforce specifically this Agreement and the terms and provisions hereof in any action in addition to any other remedy to which it may be entitled, at law or in equity.
- r) Dispute Resolution. Prior to instituting any litigation or alternative dispute resolution mechanism, the Parties will attempt in good faith to resolve any dispute or claim promptly by referring any such matter to their respective chief executive officers, or their designees, for resolution. Either Party may give the other Party written notice of any dispute or claim. Within ten (10) days after delivery of said notice, the executives will meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary to exchange information and to attempt to resolve the dispute or claim within thirty (30) days. The provisions of this Section 20(r) shall survive the Closing.
- s) Bulk Transfer Laws. Without admitting the applicability of the bulk transfer laws of any jurisdiction, the Parties agree that they will not comply with any applicable bulk transfer or similar law in connection with the transactions contemplated by this Agreement.

Definitions.

"Acquired Assets" has the meaning set forth in Section 1(a).

"Affiliate" has the meaning set forth in Rule 12b-2 of the regulations promulgated under the Securities Exchange Act of 1934, as amended.

"Agreement" has the meaning set forth in the preamble.

"Assignee" has the meaning set forth in Section 20(e).

"Assignment and Assumption Agreement" means the Assignment of Leases, Licenses and Permits and Assumption Agreement between the Parties, by which Seller shall assign certain rights, liabilities and obligations and Harvard shall assume the Assumed Liabilities, in substantially the form attached hereto as Exhibit D.

"Assumed Liabilities" has the meaning set forth in Section 1(c).

"Bill of Sale" means the form of bill of sale by which the title to personal property (including personal property comprising the Generating Facility) shall be conveyed to Harvard, substantially in the form attached hereto as Exhibit C.

"Blackstone Station" means the real property situated in the City of Cambridge, Middlesex County, Massachusetts, known as "Blackstone Station" and located at 24-46 Blackstone Street, 25-45 Blackstone Street, and 217-229 Putnam Avenue.

"Business Day" means any day other than a Saturday, Sunday, or day on which banks are legally closed for business in Boston, Massachusetts.

"Cash" means cash and cash equivalents (including marketable securities and short term investments) calculated in accordance with GAAP.

"Cash Deposit" has the meaning set forth in Section 4(a).

"Casualty Loss" has the meaning set forth in Section 16(a).

"Claim" or "Claims" means all actions, claims (whether administrative, judicial or private in nature), costs, damages, demands, expenses (including reasonable legal, accounting and other expert or consultant expenses), fines, interest, investigations, losses, notices of violation, orders, penalties, proceedings, suits and liabilities.

"Closing" has the meaning set forth in Section 6.

"Closing Adjustment" has the meaning set forth in Section 5(b).

"Closing Date" has the meaning set forth in Section 6.

"CMR" means Code of Massachusetts Regulations.

"Commercially Reasonable Efforts" means efforts which are reasonably within the contemplation of the Parties at the Effective Date and which do not require the performing Party to expend any funds other than expenditures which are customary and reasonable in transaction of the kind and nature contemplated by this Agreement in order for the performing Party to

satisfy its obligations hereunder.

"Confidentiality and NonDisclosure Agreement" has the meaning set forth in Section 17.

"Contracts" has the meaning set forth in Section 1(a)(v).

"Deed" means the form of deed by which the Real Property and Improvements (including those portions of the Generating Facility constituting real property or fixtures) shall be conveyed to Harvard, substantially in the form attached hereto as Exhibit B.

"Deposit" has the meaning set forth in Section 4(c).

"D.T.E." means the Massachusetts Department of Telecommunications and Energy.

"D.T.E. Approval" means the order or orders of the D.T.E. approving this Agreement and the consummation of the transactions contemplated hereby and all related matters, including, without limitation, approval of the regulatory treatment of the proceeds of the sale of the Acquired Assets, such order to be in a form which is Final.

"Effective Date" means the date on which this Agreement has been duly executed and validly delivered by the Parties.

"Electric Generating Facility" has the meaning set forth in Section 1(a)(ii).

"Environment" means surface waters, groundwater, or soil.

"Environmental Claim" shall mean and include any Claim under any Environmental Law arising from or in connection with: (A) an actual or alleged violation of any Environmental Law; (B) any Release of Hazardous Material; (C) any Remediation in connection with any Hazardous Material, Environmental Law, or other order or directive of any Governmental Authority; or (D) any actual or alleged damage, injury, threat, or harm to the health or safety of the general public, property or the Environment.

"Environmental Condition" means the Release at, on, or under the Site of Hazardous Materials, including any migration of those Hazardous Materials through soil or groundwater from the Site, regardless of when such Release occurred or is discovered.

"Environmental Law" shall mean any local, state or federal statute, rule, regulation, order, code, directive, or ordinance and any binding judicial or administrative interpretation thereof or requirement thereunder pertaining to: (A) the regulation or protection of health, safety, and the Environment; (B) the management, manufacture, possession, presence, use, generation, transportation, treatment, storage, disposal, release, threatened release, abatement, removal, remediation, or handling of, or exposure to, any Hazardous Material; or (C) pollution or contamination (including any Release to the Environment); and includes, but is not limited to, the following federal and state statutes (and their implementing regulations and the analogous state and local statutes and regulations): the Comprehensive Environmental Response, Compensation,

and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. § 9601 et seq.; the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended by the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. § 6901 et seq.; the Federal Water Pollution Control Act of 1972, as amended by the Clean Water Act of 1977, as amended, 33 U.S.C. § 1251 et seq.; the Toxic Substances Control Act of 1976, as amended, 15 U.S.C. § 2601 et seq.; the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. § 11001 et seq.; the Clean Air Act of 1966, as amended by the Clean Air Act Amendments of 1990, 42 U.S.C. § 7401 et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 et seq.; and the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. § 300(f) et seq.; the Massachusetts Hazardous Waste Management Act (M.G.L. c. 21C); the Massachusetts Oil and Hazardous Material Release Prevention Act (M.G.L. c. 21E); and the Massachusetts Contingency Plan (310 CMR 40.000 et seq.).

"Estimated Closing Statement" has the meaning set forth in Section 5(b).

"Excluded Assets" has the meaning set forth in Section 1(b).

"Excluded Liabilities" has the meaning set forth in Section 1(d).

"Exhibits" means the exhibits to this Agreement.

"Final" or "finally," when applied to a decision, approval or act of any Governmental Authority, means that the decision, approval or act has occurred, purports to be the final resolution and is not subject to appeal by any Person, including exhaustion of all administrative and judicial appeals or remedies and the running of time periods and statutes of limitation for rehearing and judicial review.

"FIRPTA Affidavit" means the affidavit to be delivered by the Parties at Closing pursuant to Section 1445(b)(2) of the Internal Revenue Code, to establish that each Party is not a "foreign person" within the meaning of that Section.

"GAAP" means United States generally accepted accounting principles as in effect from time to time.

"Generating Facility" has the meaning set forth in Section 1(a)(ii).

"Governmental Authority" means any federal, state, local or other governmental, regulatory or administrative agency, commission, department, board, or other governmental subdivision, court, tribunal, arbitral body or other governmental authority, but excluding Harvard and any subsequent owner of the Site (if otherwise a Governmental Authority under this definition).

"Harvard" has the meaning set forth in the preamble.

"Hazardous Material" or "Hazardous Materials" means any substance, chemical,

compound, product, solid, gas, liquid, waste, by-product, pollutant, contaminant, or material that is hazardous or toxic, and includes without limitation, asbestos or any material containing asbestos, polychlorinated biphenyls, petroleum (including crude oil or any fraction thereof), and any hazardous or toxic waste, material, or substance regulated under any Environmental Law.

"Improvements" means all buildings and structures (including all fuel handling and storage facilities), machinery, equipment, and fixtures (including all piping, cables and similar equipment forming part of the mechanical, electrical, plumbing or HVAC infrastructure of any building or structure) and construction in progress, located on and affixed to the land forming part of the Real Property, but excluding (a) the Generating Facility; (b) the steam service line under the Charles River, serving Genzyme Corporation and others, which is owned by NSTAR Steam Corporation, and (c) the T&D Assets.

"Indemnified Party" has the meaning set forth in Section 18(f).

"Indemnifying Party" has the meaning set forth in Section 18(f).

"Interim Period" means that period of time commencing on the Effective Date and ending on the Closing Date.

"Inventory" means fuel, materials, spare parts, consumable supplies and chemical and gas inventories located at the Site to the extent owned and paid for by Seller prior to Closing.

"Knowledge" means (a) the actual knowledge after reasonable investigation or inquiry, or (b) the knowledge that would have been obtained after reasonable investigation or inquiry, or (c) reckless disregard of facts, duty or obligations of due inquiry that would result in such knowledge of those corporate officers and those employees charged with responsibility for the subject matter in question at the relevant time or, with respect to any certificate delivered pursuant to this Agreement, on the date of delivery of the certificate.

"Laws" means all laws, rules, regulations, codes, injunctions, judgments, orders, decrees, rulings, interpretations, constitution, ordinance, common law, or treaty, of any federal, state, local municipal and foreign, international, or multinational government or administration and related agencies.

"Leases" has the meaning set forth in Section 1(a)(iii).

"Liability" or "Liabilities" means any liability or obligation (whether known or unknown, whether asserted or unasserted, whether absolute or contingent, whether accrued or unaccrued, whether liquidated or unliquidated, whether incurred or consequential and whether due or to become due), including any liability for fines, penalties or Taxes.

"Lien" means any mortgage, pledge, lien, security interest, charge, claim, equitable interest, infringement of a third party patent, copyright, trade secret or other intellectual property right, encumbrance, restriction on transfer, conditional sale or other title retention device or arrangement (including, without limitation, a capital lease), transfer for the purpose of subjection

to the payment of any indebtedness, or restriction on the creation of any of the foregoing, whether relating to any property or right or the income or profits therefrom, whether incurred voluntarily or by operation of law.

"Material Adverse Effect" means any change in, or effect on, the Acquired Assets that (a) is materially adverse to the nature or extent of the Acquired Assets, taken as a whole, and (b) if arising from Seller's representations and warranties in Section 9, is of a cost or value, singularly or in the aggregate, in excess of \$250,000, or (c) if arising from any other provision of the Agreement, is of a cost or value, singularly or in the aggregate, in excess of \$1,460,000, other than any such change or effect arising or resulting from or related to (i) physical condition or operability of the Acquired Assets; and (ii) legal ability of Harvard to own, operate, maintain, repair, replace or remove the Acquired Assets.

"Offsite Hazardous Material Facility" means a location, other than the Site, to which Seller or Seller's agent sent Hazardous Materials for storage, disposal, treatment, or recycling..

"Party" and "Parties" have the meanings set forth in the preamble.

"Permits" has the meaning set forth in Section 1(a)(iv).

"Permitted Encumbrances" means: (i) Liens for Chapter 59 Taxes to the extent that the payment thereof is not in arrears or otherwise due; (ii) encumbrances in the nature of zoning, building and land use laws, ordinances, orders, decrees, restrictions or any other conditions imposed by any Governmental Authority; (iii) easements (including without limitation the Retained Easements and any other easement or like right granted by an instrument executed in connection with this Agreement, or the transactions contemplated hereby or thereby, but excluding such encumbrances that secure indebtedness), rights, restrictions, conditions, title imperfections and similar matters if the same do not materially detract from the operation or use of such property in the business of Seller; (iv) any Lien or title imperfection with respect to the Acquired Assets created by or resulting from any act or omission of Harvard; and (v) all exceptions set forth in the Title Commitment.

"Person" means an individual, a partnership, a corporation, an association, a joint stock company, a trust, a joint venture, a limited liability company, an unincorporated organization, or a governmental entity (or any department, agency, or political subdivision thereof).

"Proprietary Information" has the meaning given it in the Confidentiality and Nondisclosure Agreement.

"Prudent Utility Practices" means any of the practices, methods and acts engaged in or approved by a significant portion of the steam and electric utility industry in New England during the relevant time period, or any of the practices, methods or acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with applicable Laws and good business practices, reliability, safety and expedition. Prudent Utility Practices are not intended to be limited to the optimum practice, method or act to the exclusion of all

others, but rather to be acceptable practices, methods or acts generally accepted in the region.

"Purchase Price" has the meaning set forth in Section 3.

"Real Property" has the meaning set forth in Section 1(a)(i).

"Real Property Taxes" means those taxes levied under Massachusetts General Laws Chapter 59.

"Related Agreements" means the Assignment and Assumption Agreement, the Bill of Sale, and the Deed and, as it relates to the Seller only, those documents and certificates set forth in Section 7(j).

"Release" means any actual, threatened or alleged spilling, leaking, pumping, pouring, emitting, dispersing, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of any Hazardous Material (including the disposal or abandonment of barrels, containers, tanks or other receptacles containing or previously containing any Hazardous Material).

"Remediation" means any or all of the following activities to the extent they relate to or arise from the presence of Hazardous Materials at the Site: (a) monitoring, investigation, assessment, treatment, cleanup, containment, removal, mitigation, response or restoration work; (b) obtaining any permits, consents, approvals or authorizations of any Governmental Authority necessary to conduct any such activity; (c) preparing and implementing any plans or studies for any such activity; (d) obtaining a written notice from a Governmental Authority with jurisdiction over the Site under Environmental Laws that no material additional work is required by such Governmental Authority; (e) obtaining a written opinion of a Licensed Site Professional (as defined in M.G.L. c.21A, § 19), as contemplated by the relevant Environmental Laws and in lieu of a written notice from a Governmental Authority, that no material additional work is required to address Hazardous Materials at the Site; and (f) any other activities reasonably determined by a Party to be necessary or appropriate or required under Environmental Laws to address the presence of Hazardous Materials at the Site.

"Repairs" has the meaning set forth in Section 2(a).

"Retained Easements" means the easements to be reserved by Seller in the Deed, relating to the continued use and occupancy by the T&D Assets of certain portions of the Real Property after the Closing.

"Schedule" means a schedule to this Agreement.

"Seller" has the meaning set forth in the preamble.

"Seller's Regulatory Approval" means the D.T.E. Approval.

"Site" means the Real Property and the Generating Facility. Any reference to the Site shall include, by definition, the surface and subsurface elements, including the soils and

groundwater present at such Site, and any reference to items "at the Site" shall include all items "at, on, in, upon, over, across, under and within" the Site.

"Steam Contracts" means the Agreement for Steam Service dated February 5, 1993 by and between COM/Energy Steam Company and President and Fellows of Harvard College and the Agreement for Steam Service dated August 25, 1992 by and between COM/Energy Steam Company and Genzyme Corporation.

"Steam Asset Purchase Agreement" has the meaning set forth in the preamble.

"Steam Generating Facility" has the meaning set forth in Section 1(a)(ii).

"T&D Assets" means the transmission, distribution, communication, substation and other assets (comprised of ducts, conduits, cables, wires, manholes, handholes, vaults, transformers, switchgear, service lines, grounding system and related or supporting equipment, facilities and appurtenances) located within the Retained Easements or in the public ways abutting the Real Property and necessary to current or future electric transmission and distribution operations of Seller (regardless of whether classified as a "transmission", "distribution" or "generation" asset for regulatory or accounting purposes).

"Taking" has the meaning set forth in Section 16(b).

"Tax" or "Taxes" means any federal, state, local, or foreign income, gross receipts, license, payroll, employment, excise, severance, stamp, occupation, premium, windfall profits, environmental (including taxes under Code § 59A), customs duties, capital stock, franchise, profits, withholding, social security (or similar, including FICA), unemployment, disability, real property, personal property, sales, use, transfer, registration, value added, alternative or add-on minimum, estimated, or other tax of any kind whatsoever, including any interest, penalty, or addition thereto, whether disputed or not.

"Tax Return" means any return, declaration, report, claim for refund, or information return or statement relating to Taxes, including any schedule or attachment thereto, and including any amendment thereof.

"Third Party" means a Person who is not a Party or an Affiliate of a Party.

"Third-Party Claim" has the meaning set forth in Section 18.

"Title Commitment" has the meaning set forth in Section 9(e).

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date first above written.

**PRESIDENT AND FELLOWS OF HARVARD
COLLEGE**

By: _____

Name:

Title:

By: _____

Name:

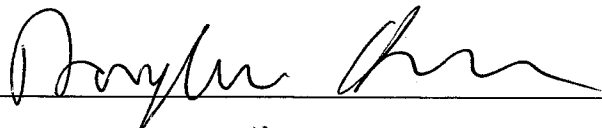
Title:

By: _____

Name:

Title:

CAMBRIDGE ELECTRIC LIGHT COMPANY

By:  _____

Name: Douglas S. Holan

Title: Senior Vice President

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date first above written.

**PRESIDENT AND FELLOWS OF HARVARD
COLLEGE**

By: Sally Zuckhauser

Name: Sally Zuckhauser

Title: Vice President for Administration

By: Kathy A. Spiegelman

Name: Kathy A. Spiegelman

Title: Authorized signatory

By: Thomas E. Vastin

Name: Thomas E. Vastin

Title: Assoc. Vice President - Facilities & Environmental
Services

CAMBRIDGE ELECTRIC LIGHT COMPANY

By: _____

Name:

Title: